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PINE BLUFF, ARK. (AP) -- AN ARKANSAS ATTORNEY SAID TODAY HE WAS TOLD BY THE MARINES THAT HIS 22-YEAR-OLD SON IS PRESUMED DEAD IN THE ABORTIVE U.S. MISSION TO RESCUE AMERICAN HOSTAGES IN IRAN.

GEORGE N. HOLMES JR. OF PINE BLUFF WAS IN THE CRASH OF A HELICOPTER AND A C-130 TRANSPORT PLANE, A MARINE OFFICER TOLD HIS FATHER, GEORGE HOLMES, 56.

U.S. OFFICIALS SAY EIGHT U.S. SERVICEMEN DIED IN THE COLLISION. ADMINISTRATION OFFICIALS REFUSED TO RELEASE THE NAMES OF THE DEAD UNTIL THEIR RELATIVES WERE NOTIFIED. THE BODIES WERE LEFT IN THE DESERT.

HOLMES WAS A HELICOPTER CREW CHIEF, HIS FATHER SAID.

THE ELDER HOLMES SAID MARINE 1ST SGT. BOB MORRISON OF LITTLE ROCK VISITED HIM AT HIS HOME HERE WITH THE NEWS THAT HIS SON WAS PRESUMED DEAD.

THE YOUNGER HOLMES WAS IN THE LAST YEAR OF A FOUR-YEAR STINT IN THE MARINES. HE ENTERED THE SERVICE AFTER GRADUATING FROM PINE BLUFF HIGH SCHOOL. HE WAS NOT MARRIED.

THE FATHER SAID HOLMES HAD BEEN IN A SELECT UNIT FOR SIX MONTHS UNDERGOING SPECIAL TRAINING. HE SAID HE HAD NOT BEEN TOLD THAT HIS SON WAS IN THE MISSION, BUT HAD SUSPECTED IT, BECAUSE HIS SON RECENTLY SENT HOME HIS CLOTHING AND OTHER ITEMS.

"HE DIDN'T GIVE US ANY DETAILS OF IT," HOLMES SAID. "HE HADN'T EVEN TOLD US HE HAD LEFT THE COUNTRY. HE SENT HIS STUFF HOME, EVEN HIS LAST PAYCHECK, CLOTHES AND STUFF, MAILED THEM HOME, AND SAID HE WOULDN'T BE NEEDING THEM FOR A WHILE.

"WE GUESSED FROM THAT THAT HE WOULD BE GONE. HE WAS TIGHT-LIPPED ABOUT IT, BUT, YOU KNOW, PARENTS CAN READ BETWEEN THE LINES. YOU KNOW, WE PRETTY WELL KNEW WHAT WAS GOING ON."

OF THE RESCUE MISSION, THE FATHER SAID, "I THINK IT WAS FINE. IT WAS A RISK THAT WAS WORTH TAKING. THAT'S WHAT I THOUGHT BEFOREHAND. I DON'T CHANGE IT NOW."

AP-WX-0425 1407EST

WAR POWERS-CIVILETTI  
BY MICHAEL J. SWIFFEN

WASHINGTON (AP) -- ATTORNEY GENERAL BENJAMIN R. CIVILETTI ADVISED PRESIDENT CARTER IN ADVANCE THAT IT WAS LEGAL TO MOUNT THE IRANIAN RESCUE EFFORT WITHOUT PRIOR NOTIFICATION OF CONGRESS, A JUSTICE DEPARTMENT SPOKESMAN SAID TODAY.

JUSTICE DEPARTMENT DIRECTOR OF PUBLIC AFFAIRS ROBERT M. SMITH SAID THAT WHILE THE ATTORNEY GENERAL WAS NOT BRIEFED ON RESCUE DETAILS, "HE WAS CONSULTED ON THE SCOPE AND MEANING OF THE (WAR POWERS) RESOLUTION AND CONSTITUTIONAL POWERS OF THE PRESIDENT INCLUDING WHEN, HOW AND IF CONGRESS WAS TO BE CONSULTED UNDER THE CONSTITUTION, THE RESOLUTION AND OTHER LAWS."

SMITH SAID THAT CIVILETTI GAVE HIS LEGAL ADVICE TO THE PRESIDENT WITHIN THE LAST WEEK OR 10 DAYS.

THE WAR POWERS ACT WAS PASSED IN 1973 AND REQUIRES ADVANCE CONSULTATION BY THE PRESIDENT WITH CONGRESS "IN EVERY POSSIBLE INSTANCE" BEFORE COMMITTING U.S. FORCES TO HOSTILITIES OR TO SITUATIONS WHERE HOSTILITIES MIGHT BE IMMINENT.

THE HUGHES-RYAN AMENDMENT OF 1974 FORBIDS ANY EXPENDITURE OF MONEY BY THE CIA FOR FOREIGN OPERATIONS "UNLESS AND UNTIL THE PRESIDENT ... REPORTS IN A TIMELY FASHION A DESCRIPTION AND SCOPE OF SUCH OPERATION TO THE APPROPRIATE COMMITTEES OF THE CONGRESS."

THE JUSTICE DEPARTMENT OFFICE OF LEGAL COUNCIL ISSUED AN OPINION OCT. 15, 1977, ARGUING THAT THIS DOES NOT REQUIRE PRIOR NOTIFICATION OF COVERT CIA OPERATIONS ABROAD BUT A 1975 STUDY BY THE LIBRARY OF CONGRESS' CONGRESSIONAL RESEARCH SERVICE REACHED THE OPPOSITE CONCLUSION.

SIMILAR LANGUAGE ON NOTIFYING CONGRESS ABOUT INTELLIGENCE AGENCY OPERATIONS ABROAD IS CONTAINED IN THE HOUSE AND SENATE RESOLUTIONS SETTING UP THEIR INTELLIGENCE COMMITTEES AND IN CARTER'S EXECUTIVE ORDER 12036 OF JAN. 24, 1978.

THOSE RESOLUTIONS AND THE EXECUTIVE ORDER REQUIRE THAT THE CONGRESSIONAL INTELLIGENCE COMMITTEES BE KEPT "FULLY AND CURRENTLY INFORMED CONCERNING INTELLIGENCE ACTIVITIES INCLUDING ANY SIGNIFICANT ANTICIPATED ACTIVITIES."

REPORTS FROM IRANIAN GOVERNMENT OFFICIALS TODAY CHARGED THAT CIA EMPLOYEES PARTICIPATED IN THE RESCUE, BUT THERE HAS BEEN NO CONFIRMATION OF THAT FROM U.S. OFFICIALS.

SMITH SAID THE DEPARTMENT HAD CONCLUDED THAT THE HUGHES-RYAN AMENDMENT AND THE PRESIDENT'S EXECUTIVE ORDER DON'T APPLY TO THE RESCUE OPERATION, BUT HE DECLINED TO SAY ON WHAT BASIS THAT JUDGEMENT WAS MADE.

CIA SPOKESMAN HERB HETO DECLINED ANY COMMENT ON THE OPERATION.  
AP-WK-0425 1359EST